

## **REMARKS**

Claims 23, 29-31, 34-37, 42, 47-48, 50-58, 60-62, and 67, as amended, are presented in this application. Independent claims 23, 58, and 62 are amended by adding a step of preparing the food product dispenser with a food delivery mechanism that includes a bowl for mixing or preparing a food or food component, a conduit for dispensing the mixed or prepared food or food component from the bowl to an outlet along a dispensing path, a cleansing fluid supply located in the dispenser, and a cleansing fluid path that at least partially includes that portion of the food or food component dispensing path from the bowl to the outlet. These claims were also amended to clarify that the cleansing fluid is periodically directed along the cleansing fluid path through the food delivery mechanism and along the food or food component dispensing path to conduct a second cleaning operation on at least that portion of the dispensing path when the food or food component is not being dispensed, and further that the dispensing path is sanitized after the cleaning operation to remove cleansing fluid therefrom. Claims 35, 54 and 60 were amended to be consistent with claim 23, while claim 60 has been amended to be consistent with claim 58. The dependency of claim 47 has been changed from canceled claim 46 to pending claim 35. The present amendments are fully supported by the original specification, claims, and drawings so that they should be entered at this time to reduce the issues for appeal, in particular by placing the claims in condition for allowance.

Claims 65 and 66 were rejected under 35 U.S.C. § 112, first and second paragraphs. In response, claims 65 and 66 have been deleted.

Claims 23, 29-31, 34-37, 42, 47-48, 50-58, 60-62, and 65-67 were rejected under 35 U.S.C. § 103 as being unpatentable over the combination of U.S. Patent No. 5,762,096 to Mirabile ("Mirabile") and US patent 5,329,950 to Barinas.

Mirabile discloses a portable cleaning and flushing device for beverage conduits such as draft beer distribution coils. The device includes a manifold, couplings and a number of valves which are controllable so as to sequence the supply of detergent from a reservoir, mixing with water from an external water source and flushing and rinsing of the distribution conduits. The device is wheeled about like a handcart and is coupleable to one or more beverage distribution lines by lead lines in place of normally attached kegs. The device is coupled to a water supply and to an electric power outlet. Detergent and pressurized water are mixed and flushed through the beverage conduit to an open spigot at the dispensing end. A preferably

programmable computerized controller sequences the operation of valves for detergent addition to a manifold, venting of the manifold, water supply for obtaining a mixing solution, application of the mixing solution to the conduit, rinsing and finally draining. The controller accepts user input for triggering operation and preferably also for defining customized parameters for particular beverage delivery systems and user choices.

Claims 23, 58, and 62 have been amended as noted above to further define the invention. In particular, the food delivery mechanism or the food product dispenser includes a bowl for mixing or preparing a food or food component, a conduit for dispensing the mixed or prepared food or food component from the bowl to an outlet along a dispensing path, a cleansing fluid supply located in the dispenser, and a cleansing fluid path that at least partially includes that portion of the food or food component dispensing path from the bowl to the outlet. None of these features are present in Mirabile. Instead, Mirabile uses an external device that is wheeled around to the beer coils where it can be connected to flush and drain water or detergent through the coils. (See, e.g., Mirabile at col. 7 lines 30-41.) There is no teaching or motivation in Mirabile or any other art of record to recycle or recirculate any cleansing fluid after it has flowed through a dispensing path of a food-product dispenser to clean it, and this is acknowledged in the office action.

The claimed recirculation provides the surprising benefits over Mirabile that it allows the use of significantly less cleansing fluid and allows the reservoir for the cleansing fluid to be much smaller or eliminated. This is not the case with the water/detergent of Mirabile, which is flushed from the device instead of being recirculated. Thus, independent claims 23, 58, and 65 are not obvious in view of Mirabile because Mirabile does not provide the unexpected benefits that are achievable with the present claims.

Similarly, claim 50 further provides a mechanism for recirculating the cleansing fluid through the same cleansing fluid path that was just cleaned, which is also different from Mirabile. Furthermore, claim 51 defines using a heating device to heat the cleansing fluid as it is recirculated through the cleansing fluid path. This is also not taught or suggested in the art of record, in which fluid used to clean the device is purposefully drained, but not recirculated. Heating the recirculated fluid provides the additional surprising benefit that less heat needs to be applied since the recirculated fluid could already have an elevated temperature prior to passing a subsequent time through the heater. Also, providing a separate heater in the recirculation loop can allow the cleansing fluid to be heated differently than the water used for making a beverage,

allowing a different heating cycle or temperature independent of the beverage water heater. Additionally, the temperature of the cleansing fluid can be controlled more precisely and can be increased gradually in place of using hot water (e.g., 80-90 °C) from the beginning of the operation, which could would cause proteins to adhere the walls of the tubing (see paragraph [0159] of the published application). Claim 67 recites the increasing temperature of the cleansing fluid during recirculation. These claims are further distinct from Mirabile.

Barinas does nothing to remedy the deficiencies of Mirabile. Barinas discloses automatic, self-contained cleaning and sanitizing equipment that includes a first liquid holding tank for a cleaning solution and a second liquid holding tank for a sanitizing solution. A cleaning line runs from the first tank and has an outlet adapted for connection to an item to be cleaned, and a cleaning return line runs back to the first tank and has an inlet adapted for connection to the item to be cleaned. A sanitizing line runs from the second tank and has an outlet connected directly to the item to be cleaned, or to the cleaning line so as to create a common connection to the item to be cleaned, and a sanitizing return line runs back to the second tank directly from the item to be cleaned, or from the cleaning return line so as to create a common connection running from the item to be cleaned. There is a first pump connected to the equipment for circulating liquid from the first tank to the item to be cleaned and back to the first tank through the cleaning return line and a second pump connected to the system for circulating liquid from the second tank to the item to be cleaned and back to the second tank through the sanitizing return line. An ozone generator is included on the second tank or the sanitizing line for inclusion of ozone therein.

The only apparently relevant disclosure in Barinas is the recirculation of the cleaning and sanitizing fluids through the food or beverage device. However, Barinas also refers to a portable equipment which can be taken from place to place. As taught by Barinas, the equipment must be connected to the item to be cleaned, such as a water cooler 7, and cleaning or sanitizing is carried out afterward. Therefore, Barinas basically teaches that one can hook up an external pump recirculation system to various equipment but he fails to disclose providing a food delivery mechanism that includes a bowl for mixing or preparing a food or food component, a conduit for dispensing the mixed or prepared food or food component from the bowl to an outlet along a dispensing path, a cleansing fluid supply located in the dispenser, and a cleansing fluid path that at least partially includes that portion of the food or food component dispensing path from the bowl to the outlet. And while the use of Barinas portable equipment would be

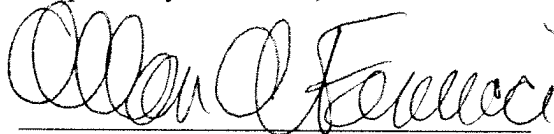
adaptable to Mirabile's system, this combination would not result in the present invention since all of the method steps are carried out within the dispenser.

Accordingly, there is no evidence or suggestion in Barinas of the present configuration, nor is there any evidence or suggestion in Barinas to modify Mirabile to use Applicants' method. See *Ex Parte Katoh et al*, Board Appeal Decision 20071460, Decided May 29, 2007. Furthermore, the Examiner has not provided any evidence that it was conventional in the art to provide the cleaning supply in the dispenser. See *Ex Parte Owlett*, Board Appeal Decision 20070644, Decided June 20, 2007. Accordingly, the Examiner has not provided a sufficient reason or explicit analysis of why the disclosures of the references should be combined. See *Ex Parte Erkey et al*, Board Appeal Decision 20071375, Decided May 11, 2007. There is no suggestion to combine the teachings and suggestions of Barinas and Mirabile, as advanced by the Examiner, except by using Appellants' invention as a template through a hindsight reconstruction of Appellants' claims. See *Ex Parte Crawford et al*, Board Appeal Decision 20062429, Decided May 30, 2007.

In light of the foregoing, all rejections have been overcome and should be withdrawn, so that a notice of allowance is respectfully requested. Should the Examiner have any questions or concerns regarding the amendments or remarks for this application, then a telephonic interview with the undersigned is respectfully requested to discuss any such questions or concerns and to expedite the eventual allowance of this application.

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Date

Respectfully submitted,



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